

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BENNIE GIBSON,

Plaintiff,

-against-

EMPLOYEES, SUPERVISORS ADM, OF  
DOCTORS NURSES EAST ELMHURST  
HOSP., et al.,

Defendants.

1:19-CV-0204 (CM)

ORDER

COLLEEN McMAHON, Chief United States District Judge:

By order dated December 23, 2019, and entered three days later, the Court denied Plaintiff's amended *in forma pauperis* ("IFP") application, and dismissed this *pro se* action without prejudice, because Plaintiff is barred under 28 U.S.C § 1915(g) from proceeding with this action IFP and had not paid the relevant fees to bring this action. The Court granted Plaintiff 30 days to pay the fees.<sup>1</sup> The Court warned Plaintiff that if he did not pay the fees within the time allowed, the Court would enter judgment dismissing this action without prejudice under § 1915(g).

On January 23, 2020, the Court received a letter from Plaintiff in which he requested between one and five additional days to pay the fees. (ECF 11.) But he did not pay the fees at any time before the Court finally dismissed this action without prejudice in a judgment dated and entered 11 days later, on February 3, 2020.

Plaintiff filed another letter on February 12, 2020, in which he requests "more than 5 days" to pay the fees. (ECF 13.) He also states that "there is absolutely no way [he] should not

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<sup>1</sup> Plaintiff commenced this action while he was held on Rikers Island. But he was released from custody thereafter.

have been able to proceed [IFP] . . . in this this litigation . . . .” (*Id.*) On February 24, 2020, he filed a notice of appeal. (ECF 14.)

The Court construes Plaintiff’s February 12, 2020 letter as a motion to alter or amend a judgment under Rule 59(e) of the Federal Rules of Civil Procedure, and for reconsideration under Local Civil Rule 6.3. The Court grants the motion and gives Plaintiff 30 days’ leave to pay the \$400 in fees to bring this action.

### CONCLUSION


The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

The Court construes Plaintiff’s letter, filed on February 12, 2020, as a motion to alter or amend a judgment under Rule 59(e) of the Federal Rules of Civil Procedure, and for reconsideration under Local Civil Rule 6.3. The Court grants the motion and vacates its February 3, 2020 judgment. (ECF 12.) The Court grants Plaintiff 30 days’ leave to pay the \$400 in fees to bring this action. The Court will not grant any further extensions. If Plaintiff fails to pay the fees within the time allowed, the Court will enter judgment dismissing this action without prejudice under 28 U.S.C. § 1915(g).

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: June 23, 2020  
New York, New York

  
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COLLEEN McMAHON  
Chief United States District Judge